

# MIRIAM A. CHERRY

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## ACADEMIC EXPERIENCE & HONORS

Fall 2009      Visiting Professor, University of Georgia School of Law

2006 -      Associate Professor, University of the Pacific-McGeorge School of Law  
present      Voted Tenure, 2008

2008      Elected to Membership, American Law Institute

2003 - 2006      Assistant Professor, Cumberland Law School, Samford University  
Promoted to Associate Professor, Spring 2006

Courses      Business Associations, Contracts I & II, Employment Law,  
Taught:      Employment Discrimination, Sales & Leases of Goods, Gender & Law

Additional      Securities Regulation, Property, Jurisprudence, Mergers & Acquisitions,  
Interests:      Business Drafting, Law & Literature

## EDUCATION

**J.D.**      **HARVARD LAW SCHOOL**      1999  
*cum laude*, Highest 1/3  
*Harvard Women's Law Journal*, Chair of Article Selection  
Research Assistant to Professors Charles Nesson and Martha Minow  
Legal Services Center, Battered Women's Advocacy Project

**B.A.**      **DARTMOUTH COLLEGE**      1996  
Phi Beta Kappa, *summa cum laude*, High Honors in History  
Edwin Jones Award for best American history thesis, "*Any Side of These  
Known Friends*": *Interactions between African American and White  
Women in the Boston and Philadelphia Female Anti-Slavery Societies*

## SCHOLARSHIP: BOOKS

GLOBAL ISSUES IN EMPLOYMENT LAW (2008) (with S. Estreicher) (Thomson-West).

UNDERSTANDING MERGERS AND ACQUISITIONS (with F. Gevurtz) (forthcoming, 2009).

## SCHOLARSHIP: LAW REVIEW ARTICLES

*Clawbacks: Prospective Contract Measures in an Era of Excessive Executive  
Compensation and Ponzi Schemes* 94 MINN. L. REV. \_\_\_\_ (forthcoming 2009) (with Jarrod  
Wong).

*Working for (Virtually) Minimum Wage: The Fair Labor Standards Act in Cyberspace*,  
\_\_\_\_ ALA. L. REV. \_\_\_\_ (forthcoming 2009).

*Prediction Markets and the First Amendment*, 2008 U. ILL. L. REV. 833 (2008) (with Robert L. Rogers).

*Tiresias and the Justices: Using Information Markets to Predict Supreme Court Decisions*, 100 NORTHWESTERN UNIVERSITY L. REV. 1141 (2006) (with Robert L. Rogers).

*Markets for Markets: Origins and Subjects of Information Markets* 58 RUTGERS L. REV. 339 (2006) (with Robert L. Rogers).

*Decentering the Corporation: Using the Limited Liability Company to Organize Low Wage Immigrant Workers*, 39 U.C. DAVIS L. REV. 787 (2006) (reprinted in 27 IMMIGRATION & NATIONALITY L. REV. 125 (2006)).

*Whistling in the Dark? Corporate Fraud, Whistleblowers, and the Implications of the Sarbanes-Oxley Act for Employment Law*, 79 WASHINGTON L. REV. 1029 (2004).

*How to Succeed in Business Without Really Trying (Cases): Gender Stereotypes and Sexual Harassment Since the Passage of Title VII*, 22 HOFSTRA LABOR & EMPLOYMENT L. J. 533 (2005) (invited symposium contribution).

*A Tyrannosaurus-Rex Aptly Named "Sue": Using a Disputed Dinosaur to Teach Contract Defenses*, 82 N. D. L. REV. 295 (2005).

*Exercising the Right to Public Accommodations: The Debate Over Single-Sex Health Clubs*, 52 MAINE LAW REVIEW 97 (2000).

### **SCHOLARSHIP: ESSAYS, BOOK REVIEWS, AND PUBLISHED REMARKS**

*Essay, The Global Dimensions of Virtual Work*, \_\_ ST. LOUIS UNIV. L. J. \_\_\_\_ (forthcoming 2009) (invited symposium contribution).

Book Review of Jeffrey Brandon Morris's *Establishing Justice in Middle America: A History of the United States Court of Appeals for the Eighth Circuit*, 27 LAW & HISTORY REV. 220 (2009).

*Essay, Working (with) Workers: Implementing Theory*, 41 SUFFOLK L. REV. 731 (2008) (contribution to AALS annual meeting panel, selected through blind peer review).

*Essay, Exploring (Social) Class in the Classroom: The Case of Lucy, Lady Duff Gordon*, 28 PACE L. REV. 235 (2008) (invited symposium contribution).

*A Satire of Law Firm Employment Practices* (Book Review of Jeremy Blachman's *Anonymous Lawyer*), 20 GEORGETOWN J. LEGAL ETHICS 1137 (2007).

*No Longer Just Company Men: The Flexible Workforce and Employment Discrimination* (Book Review of Katherine V.W. Stone's *From Widgets to Digits*), 27 BERKELEY J. LAB. & EMP. L. 209 (2006).

*Images of Women Workers in Film*, 10 EMPLOYEE RIGHTS & EMPLOYMENT POLICY J. 295 (2006) (published remarks, AALS annual meeting panel).

## **SCHOLARSHIP: SHORTER, OCCASIONAL, AND STUDENT WORK**

Various Entries, Encyclopedia of the Supreme Court of the United States (ed. David S. Tanenhaus) (summaries of *West Coast Hotel v. Parish*, *Monaco v. Mississippi*, *Brown v. Maryland*, and *Massachusetts v. Mellon*).

*Reality at Work*, LEGAL TIMES, Oct. 31, 2005 (reprinted as *Losing Out by Not Fitting in: What Do Martha, Donald, and the Apprentice Really Tell Us*, CONN. L. TRIB., Nov. 14, 2005).

*Call the Foul Against Title IX: To Defeat Gender Discrimination, High Court Should Let Whistleblowers Sue for Retaliation*, LEGAL TIMES, November 29, 2004.

*The Five Stages of Law Review Submission* (with Brannon P. Denning) (unpublished satire, available on SSRN).

*Case Comment, A Negotiation Approach to Mandatory Arbitration Contracts*, 4 HARVARD NEGOTIATION L. REV. 269 (1999).

*Note, Not-So-Arbitrary Arbitration: Using Title VII Disparate Impact Analysis to Invalidate Employment Contracts That Discriminate*, 21 HARVARD WOMEN'S L. J. 267 (1998).

## **SCHOLARSHIP: WORKS IN PROGRESS**

*A Taxonomy of Virtual Work*

*Technology and the Whistleblower*

*The Strange Tale of Trover, the Amazing Living Dog and Other Contracts Hypotheticals*

*Edith Wharton's Contractual View of Marriage*

## **JUDICIAL CLERKSHIPS AND PRACTICE EXPERIENCE**

### **JUDICIAL CLERK, U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT CHAMBERS OF JUDGE GERALD HEANEY**

2000-2001 Term

Wrote internal legal memoranda and assisted with legal opinions, including: Deerbrook Pavillion v. Shalala, 235 F.3d 1100 (8<sup>th</sup> Cir. 2000) (sale of nursing home did not relieve obligation to pay fines under complex regulatory scheme); Singleton v. Norris, 267 F.3d 859 (8<sup>th</sup> Cir. 2001) (refusing to administer antipsychotic drugs to make defendant sane for purposes of execution).

### **LAW CLERK, SUPREME JUDICIAL COURT OF MASSACHUSETTS, JUSTICE RODERICK L. IRELAND**

1999-2000 Term

Researched various issues of law and assisted with legal opinions including: Harhen v. Brown, 431 Mass. 838 (2000) (business judgment rule); Commonwealth v. Mavredakis, 430 Mass. 848 (2000) (constitutional law, rights under state versus U.S. Constitution); Rotkiewicz v. Sadowsky, 431 Mass. 748 (2000) (defamation law).

## **BERMAN DEVALERIO PEASE TABACCO BURT & PUCILLO**

Boston, MA

2002 – 2003

Briefed Symbol Technologies case, which led to corporate restructuring and resulted in \$139 million settlement. Briefed accountant's liability issues in WorldCom litigation. Researched and wrote legal briefs in several other accounting fraud cases, including Reliant Energy. Investigated potential violations of various securities laws.

**FOLEY HOAG LLP**, Boston, MA

Summer 1998, 2001 - 2002

Assisted corporate clients with mergers and acquisitions, venture capital financings and private debt financings. Advised corporate clients with general business matters including formation, capitalization, contract review, contract drafting and compliance with securities laws. Provided non-profit organizations with legal advice on corporate matters.

### **SELECTED PUBLIC PRESENTATIONS AND MEDIA APPEARANCES**

*"The Global Dimensions of Virtual Work,"* St. Louis University Law School, Symposium, Competition in the Global Workplace, The Role of Law in Economic Markets, April 3, 2009, St. Louis, MO.

Legal Commentary, *State workers, minimum wage, and the budget impasse*, ABC News (San Francisco, Los Angeles), July 20, 2008.

Legal Commentary, *Fair Labor Standards Act and the California budget*, Channel 10, ABC Local News, Sacramento, CA, July 28, 2008.

*"Virtual Work,"* invited presentation, American Bar Association, Technology in the Practice and Workplace Committee Mid-Year Meeting, May 1, 2008, Chicago, IL.

*"Employment and Labor Law Lawyer as Public Intellectual,"* AALS Annual Meeting presentation, Employment Law Section, January 4, 2008, New York City, New York.

Discussant, *"The Brain Drain and Economic Development," Taking Stock of Sustainable Development at Twenty: A Principle at Odds with Itself?,"* University of the Pacific-McGeorge School of Law, Nov. 16, 2007, Sacramento, CA (discussing report of World Bank Economist and serving as discussant along with Prof. Anupam Chander).

*"(Social) Class in the Classroom: The Case of Lucy, Lady Duff Gordon,"* Symposium on the Legacy of Lucy, Lady Duff-Gordon, Pace University Law School, Nov. 7, 2007, White Plains, New York.

*"Global Issues in Employment Law,"* Second Annual Colloquium on Current Scholarship in Labor and Employment Law, University of Colorado, Sept. 28, 2007, Boulder, Colorado.

*"Global Issues in Employment Law,"* Faculty Colloquium, University of Nebraska, Sept. 21, 2007, Lincoln, Nebraska.

*"Funds and Fundamentalism,"* Association for Law Culture and Humanities Conference, Georgetown University Law Center, March 23, 2007, Washington D.C.

*"The Strange Tale of Trover, the Amazing Living Dog,"* Third Annual Contracts Conference, South Texas Law School, February 23, 2007, Houston, Texas.

*“A Satire of Law Firm Employment Practices,”* Colloquium on Current Scholarship in Labor and Employment Law, Marquette University, October 25, 2006, Milwaukee, Wisconsin.

*“Contract Pedagogy,”* Southeast Association of Law Schools (SEALS) Conference, July 21, 2006, West Palm Beach, Florida.

*“The Mythology of the Whistleblower,”* Law and Society Conference, July 7, 2006, Baltimore, Maryland.

*“Law Professor Blogs,”* Coast to Coast / The Legal Talk Network, June 2, 2006 (radio show interview with Professors Eugene Volokh and Susan Crawford).

*“Analyzing the Development of Information Markets,”* Faculty Colloquium, University of Alabama Law School, April 7, 2006, Tuscaloosa, Alabama.

*“Marriage and Divorce in Edith Wharton’s Summer,”* Association for Law Culture and Humanities Conference, March 7, 2006, Syracuse University, Syracuse, New York.

*“A Dinosaur Named Sue,”* International Contracts Conference, Texas Wesleyan University, February 25, 2006, Dallas-Ft. Worth, Texas.

*“Sex Stereotyping Theory and Images of Working Women in Popular Culture,”* AALS Annual Meeting, Employment Discrimination Section, January 5, 2006, Washington D.C.

Moderator, Panel on Scholarship and Continuing Legal Education, AALS Annual Meeting, Employment Discrimination Section, January 5, 2006, Washington D.C.

*“Markets for Markets: Origins and Subjects of Information Markets,”* Faculty Workshop Talk, St. Louis University Law School, Oct. 18, 2005, St. Louis, Missouri.

*“Tiresias and the Justices: Using Information Markets to Predict Supreme Court Outcomes,”* New Scholars Panel, Southeast Association of Law Schools (SEALS) conference, July 21, 2005, Hilton Head, SC.

*Legal Commentary, Sarbanes-Oxley Act / HealthSouth Trial,* Channel 42, CBS Local News, June 29, 2005.

*“Decentering the Corporation”* Symposium on Critical Race Feminism, April 1, 2005, U.C. Davis Law School, Davis, CA.

*Legal Commentary, Jackson v. Birmingham Board of Education,* Channel 42, CBS Local News, March 29, 2005.

*“Melodrama and the Tale of the Whistleblower,”* Law, Culture, and Humanities Conference, March 12, 2005, Austin, TX.

*"How to Succeed in Business Without Really Trying (Cases): Gender Stereotypes and Sexual Harassment Since the Passage of Title VII,"* Conference on the Fortieth Anniversary of Title VII, Feb. 26, 2005, Hofstra Law School, Hempstead, NY.

*Legal Commentary, Jackson v. Birmingham Board of Education,* Channel 42, CBS Local News, Nov. 30, 2004.

*"Sarbanes-Oxley Act: Key Points and Provisions,"* Managing and Governing Non-Profits in the Era of Sarbanes-Oxley, Program by Non-Profit Resource Center of Alabama, Nov. 12, 2003.

*"Edith Wharton and the Law of Divorce,"* Panel on Edith Wharton and Moral Vision, Conference of the Edith Wharton Society, July 14, 2003, University of Surrey, Roehampton.

### **SERVICE TO LAW SCHOOLS AND THE PROFESSION**

Co-Organizer, Fourth International Contracts Conference (held at Pacific-McGeorge, February 2008).

Contributing Author, ContractsProf Blog, (2005- present).

Guest Author, Prawfsblawg (Fall 2006).

Guest Author, Concurring Opinions (Spring 2006, Fall 2008).

Pacific-McGeorge, Member, Curriculum Committee (2008 – present).

Pacific-McGeorge, Member, Strategic Long-Term Planning Committee (2008 – present).

Pacific-McGeorge, Member, Faculty Development Committee (2006- 2008).

Pacific-McGeorge, Member, Teaching Methods Committee (2007 – 2008).

Pacific-McGeorge, Member, Employment, Promotion, and Tenure Committee (2006- 2007).

Executive Committee, AALS Section on Employment Discrimination (2006 – present).

Cumberland Law School, Member, Colloquium Committee (2003-2005).

Cumberland Law School, Member, Institutional Review Board (2004).

Cumberland Law School, Member, University Diversity Committee (2004-2005).

Cumberland Law School, Member, University Task Force on Academic Standards (2004-2005).

Cumberland Law School, Member, Faculty Recruitment Committee (2003-2004).

### **BAR ADMISSION**

Admitted to Massachusetts Bar in December, 1999.

### **INTERESTS**

Enjoy hiking, swimming, visiting historic places, science fiction writing, and gardening, (but not all at the same time).